

CITY OF OREM
SPECIAL CITY COUNCIL MEETING
56 North State Street, Orem, Utah
June 26, 2014
6:00 p.m.

6:00 P.M. SPECIAL SESSION – OREM CITY COUNCIL CHAMBERS

CONDUCTING Mayor Richard F. Brunst, Jr.

OREM ELECTED OFFICIALS Mayor Richard F. Brunst, Jr. and Councilmembers Hans Andersen, Margaret Black, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner

OREM STAFF Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Richard Manning, Administrative Services Director, Greg Stephens, City Attorney; Karl Hirst, Recreation Director; Bill Bell, Development Services Director; Chris Tschirki, Public Works Director; Scott Gurney, Interim Public Safety Director; Charlene Crozier, Library Director; Steven Downs, Assistant to the City Manager; and Taraleigh Gray, Deputy City Recorder

INVOCATION/
INSPIRATIONAL THOUGHT: Mark Fincher

PLEDGE OF ALLEGIANCE: Val Hale

SCHEDULED ITEMS

RESOLUTION - Expressing the City of Orem's Intention to (1) Move Forward; or (2) to Not Move Forward With Milestone Two of the Macquarie Pre-Development Agreement and Directing City Representatives to Take the Necessary Steps to (1) Proceed to Milestone Two or (2) to Not Move Forward to Milestone Two and to Authorize the Payment of the City's Pro-Rata Share of Milestone One Costs.

In the Spring of 2013, the City of Orem and the other cities of the Utah Telecommunications Open Infrastructure Agency (UTOPIA) and the Utah Infrastructure Agency (UIA) were contacted by Macquarie Infrastructure Developments, LLC (Macquarie) regarding the potential development of a public-private partnership (PPP) between UTOPIA/UIA and Macquarie in relation to the completion, operation and “refresh” of the UTOPIA/UIA fiber network.

In December 2013, UTOPIA/UIA signed a Pre-Development Agreement (PDA) with Macquarie to set forth in a preliminary manner the parameters for further investigation and negotiation of a public-private partnership in preparation of a permanent agreement between the parties at a future date. As outlined in the PDA, the investigation was to be completed in four phases or “milestones.” At the conclusion of each milestone, the cities of UTOPIA/UIA were to be given a

“Milestone Report” with an opportunity for each respective city in the proposed PPP to move forward to the next milestone or to terminate its interest and relationship with Macquarie and the milestone process. As per the UTOPIA/UIA PDA with Macquarie, costs of each milestone were to be assumed by Macquarie in the event UTOPIA/UIA and its respective member cities were to move forward through the milestone process and enter into a permanent agreement. In the event UTOPIA/UIA or individual cities within UTOPIA/UIA were to terminate its relationship with Macquarie, the costs of each respective milestone in question would be shared between the city or cities choosing to not move forward in the milestone process and Macquarie.

In April 2014, UTOPIA/UIA received a copy of the Macquarie Milestone One Report. In May 2014, it was determined by both the UTOPIA and UIA Boards that each respective UTOPIA/UIA city would have until June 27, 2014 to, by resolution, agree to move forward to Milestone Two or to terminate its relationship with Macquarie.

To date, the following five UTOPIA cities had voted to move forward to Milestone Two:

1. Brigham City (also a member of UIA)
2. Layton (also a member of UIA)
3. Midvale (also a member of UIA)
4. Tremonton
5. West Valley (also a member of UIA)

The following four cities had voted against moving forward to Milestone Two:

1. Centerville (also a member of UIA)
2. Lindon (also a member of UIA)
3. Murray (also a member of UIA)
4. Payson

City staff had prepared two resolutions for the Council’s consideration, namely one that authorized the City of Orem to move forward to Milestone Two and another that did not authorize the City of Orem to move forward to Milestone Two. As a note, in proceeding to Milestone Two, it should not be interpreted as an intention by the Orem City Council to proceed with additional milestones or to ultimately assess a telecommunications fee. Those decisions would be made at a later date, after additional information had been received and subject to an additional vote of the Orem City Council.

Over the course of the past few months, staff, in cooperation with the City Council, had reviewed a variety of options associated with the future of the UTOPIA/UIA network. Such options included placing the network into “maintenance mode,” continuing with the UTOPIA/UIA “sweet spot” plan as proposed by agency management, selling the fiber network, moving forward with a shutdown or “going dark” plan, progressing in further evaluation of the proposed Macquarie PPP and finally, other options as introduced to UTOPIA/UIA and all member cities, including a developing proposal from a local telecommunications/fiber company based in Salt Lake City. In addition, the City of Orem had also entertained discussions from other entities interested in accessing the UTOPIA/UIA network in potentially meeting and servicing the needs of Orem residents.

In choosing to move forward or to not move forward with Macquarie’s Milestone Two, the following advantages and disadvantages were considered:

Advantages

- The Macquarie PPP proposal represented the most complete proposal that a private entity had presented to UTOPIA/UIA since the fiber agency began searching for a private partner.
- In moving to Milestone Two, the City of Orem maintained a strong negotiating position in the development of a potential permanent agreement between UTOPIA/UIA and Macquarie.

Disadvantages

- Proceeding to Milestone Two could potentially result in additional costs to the City of Orem in the event the city chose to not proceed to future milestones as part of the Macquarie PPP evaluation.
- Proceeding to Milestone Two may be perceived as an endorsement of the Macquarie PPP, as proposed, rather than simply a desire to continue to evaluate the proposed partnership.

Mayor Brunst said the meeting was not a public hearing, but that the Council had allotted two hours for the public to speak. The last hour would be for the Council to give their comments and feelings on the issue, and a vote would conclude the meeting.

Mayor Brunst said this was a time intensive issue. He thanked the Council and City staff for the amount of time and effort put into the issue.

Mayor Brunst opened the public comment section of the meeting.

Bill Fairbanks said he was in attendance when UTOPIA was first presented years ago. He remembered \$10-15 million being the projection in cost for putting UTOPIA in. He had not heard anyone saying anything bad about the technology that came with UTOPIA. He understood the debt was climbing to \$100 million. He voiced concern about debt being visited upon the citizens and said he believed there were things that could be done to stop the debt. Going further in debt was not the answer. Mr. Fairbanks asked the Council to consider the issue as if this were a business issue.

David Hale said he had been a resident of Orem for four years. He became familiar with the Internet in 1994, and twenty years later he was using it at home doing many different things. He said he was not the perfect demographic for UTOPIA, and that he was against forcing all citizens to buy the service. He asked the Council not to go through with the deal.

Sam Lentz said his neighborhood had been considered “gray” in that they were not able to benefit from UTOPIA. He said citizen tax dollars continued to pay UTOPIA debt. He suspected he could get faster and more reliable service through Xmission or Sumo, but UTOPIA has said building to Mr. Lentz’s neighborhood would not happen. Mr. Lentz said he did not know why the city leaders were convinced they could find a better fiber network solution themselves. If the Council moved on to Milestone Two, the City could have more funds to put back into infrastructure. Macquarie representatives had been incredibly transparent in putting out their information. Mr. Lentz said he did not think the cities would get a better offer and urged the Council to move forward to Milestone Two.

Matt Makell said he was a CPA in Orem and tended to look at the financial side of things. He gathered that the City was paying about \$8 per month for nothing. Macquarie proposed paying \$20 for something—something that could change. Mr. Makell said the citizens had been promised things in the past that never came to fruition, and he was worried they were being promised things again that would not come to fruition. He said he was confident the City could find a solution to the UTOPIA problem. He also voiced concern about the thirty year commitment Macquarie had proposed.

Mary Dunn said she was a mother of elementary children and that home internet access was required in order for them to succeed. It was clear that high-speed internet was no longer a luxury. In the information age the Internet was the means by which the information was exchanged. Ms. Dunn said she had tried wireless service, but the service provider's antenna could not pick up a signal. There were no other competitive options to switch to. The important thing to look at was what would be provided with the fee. She urged the Council to vote in favor of proceeding to Milestone Two.

Judy Cox said she lived a block away from UTOPIA access. She said she did not have it, and did not want it, and did not need it. She said her 20 mbps speed was sufficient. She voiced opposition to the fee because it was based on the roofline, not on customer usage. The fee would not pay down the debt, but rather the fee would increase over time.

Dave Young said he was an investment advisor and business consultant. He said the taxpayers of Orem were stuck with the debt, and that not one of the original promises had proven true. Mr. Young said the City Council had no way to know if Macquarie was reasonable because there were no independent views of the company's financials. Mr. Young said he wondered why the City Council would vote to put the City into more debt based on such limited information.

Beverly Burdett compared the fiber infrastructure to indoor plumbing and paved roads. The people opposed to those had said they did not need them, did not want them, and would not use them. She encouraged the elected officials to have the moral courage to make the best decision for the economic development and well-being of the city. The Council had been given the facts. She encouraged them to weigh the benefits of the proposals and make the best decisions for the benefit of the community.

An unnamed resident said he had read the Macquarie document and believed it was a good option. He said he liked the competition aspect that would be present once the network was in.

Ben Jenkins said the City was not learning from history. He urged the Council not to go down as the ones who got fooled twice. He said the main issue was to vote to go on to the next step, but he expressed fear that moving on to the next step would incur more debt. The way the City had approached the deal was terrible. He said he did not think there was any rush to move forward. He said if the Council was smart, they would ask around and find other options. Mr. Jenkins urged the Council not to rush into the Macquarie proposal.

Brittany Lentz said she was fed up with the lies and misinformation circulating about the Macquarie proposal. Much of the misinformation was being funded by CenturyLink. She acknowledged that there was fair concern for the proposed utility fee. The only people who stood to lose money on the deal were Comcast and CenturyLink. It was important to keep the network

open-access. She said the Council should not exaggerate the benefits of putting it out to bid. If the Council voted against moving forward, the citizens should know what the Council planned to use for a backup plan. Mrs. Lentz noted that the Utah Valley Chamber of Commerce had voted in favor of proceeding with Macquarie.

Joel Smith said the beauty of the proposal was the risk shift to Macquarie. If Macquarie failed, the City would not have to pay for it. If Macquarie was unable to operate the network, they would be in breach of contract, and the asset would return to the cities. Mr. Smith said he believed the risk shift should be most appealing to citizens, as the citizens had demonstrated a low appetite for risk and failure.

Suzanne Smith said she was very concerned about the Macquarie proposal because it was not guaranteed. She was perfectly satisfied with her current internet services. Utility fees were for something that was used, and citizens should only have to pay for what they used.

Shirley Robbins said she agreed with Ms. Smith. Ms. Robbins said she would like to have some guarantee. There should be other options on the table. She asked the City Council to vote no.

Lavena Rowndy said it was a pleasure to learn and be more involved in city government. She said the Internet was a great equalizer that provided education and a way to look for jobs. Mrs. Rowndy said she did not feel it was an argument about if the Internet was valuable—it was an argument on how to solve the UTOPIA problem.

Eric Rowndy said he appreciated the gravity of the City Council's decision. He recognized this was not a final step in Macquarie's proposal process. He asked the Council to look at the proposal for what it was. The problem was multivariable. He believed a yes or no in its entirety was premature. He suggested the Council get a better idea of how the proposal could benefit or hurt the City to put to rest the fear, uncertainty, and doubt of the citizens.

Senator Valentine said he had seen both sides of this issue. He discussed a recent senate bill that dealt with the legality concerns of Macquarie's proposal. He pointed out four legal issues:

- Cross subsidy – A municipality may not cross subsidize its cable television with tax dollars.
- Unauthorized tax authority.
- Preferential treatment – violation of federal and state law.
- City sovereignty violations – step-in rights for collection of fees.

Mr. Sumner asked if Provo's decision was questionable on this with their recent transaction with Google Fiber.

Senator Valentine said it was.

Chris Spencer said he had huge concerns about the proposal. He referred to increases in property taxes. He suspected UTOPIA had failed because of mismanagement. He voiced concern with the proposed utility fee. He did not think the City Council had the right to impose a fee on citizens to buy a utility the citizens did not want. He said more information needed to be gathered.

Allan Young said he felt the proposal would cost the City a fortune to keep going. He said electronics were moving too fast, and there were too many changes. He recommended that the City Council vote no.

Will Matheson said he was sympathetic to those who wished for a no vote. He did not believe that the vote of no was appropriate. The Council needed more information so he encouraged the Council to let it go forward. Mr. Matheson said the Council should not fear its political future, but rather should worry about what was truly best for the City. He said the Internet would be a utility just like electricity and gas, which were all luxuries at one time. Mr. Matheson said he felt price gouged by cable monopolies and believed an open network would benefit all citizens.

Rudy Isaacson said he honored the City Council's work and service. He wanted to see the citizens allowed to choose. He said competition was good but cautioned the Council to not go down the lane with a single provider.

Bonnie Pents said she thought about how big of a struggle the UTOPIA issue was. She said she was against the proposal as she did not think the City needed to spend more money. She did a lot of work online, paying bills, using email and Facebook, and trading stock options. Citizens were doing fine with their existing service. She believed the citizens should have their choice, and feared demanding and threatening citizens to turn off other services was a serious offense.

Claireen Downs said she was concerned about the proposal because of the possibility of more debt. She said debt never sleeps. She voiced gratitude for Senator Valentine's comments. She was concerned about the inflation and wondered if it was wise to agree to a thirty-year deal. She said with the rapid development of technology, what Macquarie was proposing could become outdated. She asked the City Council to vote no and to find other options.

Curtis Wood shared a personal story about working in a Burbank airport in 1992. He said the City was looking at buying something for thirty years. The leaps and bounds of technology had been reduced dramatically year after year. He said obsolescence at eighteen months on computer products was a reality, and that there could be obsolescence in Macquarie's proposal. He said saddling people with a fee for thirty years was not good.

Tana Oscanion said she was not happy to have to pay a utility fee. She said the Councilmembers who planned to vote yes would be robbing her family of \$20 per month. She was concerned the \$20 would not pay any of the existing debt. Some people had complained about the other monopolies, but Macquarie was being put in as a monopoly. There was enough information to vote no.

Claude Richards said he was not opposed to using internet or using fiber, but he was opposed to making his neighbor pay for it. He asked the City Council not to be railroaded on Macquarie's time schedule. He encouraged the Council to come up with something better.

Drew Teemant said the country of Estonia had made internet access a human right, and said he did not know how they did that. South Korea had installed ubiquitous internet service for the entire nation. Mr. Teemant said fiber internet was based on light and nothing was faster than light. He said there were limitations to wireless and other technologies. He said the Council needed to do something sooner than later. He pointed out that the iProvo network began when

Provo contracted with a provider. That provider failed to meet the agreement, at which time the network returned to Provo, which later allowed Provo to sell it for \$1.

Andrew McKay said there was a lot of confusion surrounding the issue. He would like to see Orem and neighboring cities clear the fog from the confusion. Mr. McKay said he thought Milestone Two would allow the cities to garner information to clear the fog of confusion. It would give numbers and legal principles. He urged the Council to continue on with the Macquarie milestone process before shooting it down.

Val Hale, Utah Valley Chamber of Commerce, said he believed the proposal did merit spending the money to find out more information. Mr. Hale said he had the fear that Orem would drop from a tier-one community to a tier-two community if the Council voted against the Macquarie Milestone Two. If Orem failed to come up with a high-speed internet option for businesses, Orem's business community would suffer. Mr. Hale said he, along with the Chamber of Commerce, encouraged the Council to move on to Milestone Two.

Mary Street said she was often called a cheerleader for UTOPIA as she served on the Orem City Council. She asked the City Council to provide equal opportunity to Orem residents in finding a low cost, reliable way of providing internet. She expressed belief that Macquarie had a good proposal, and that the Council's action to move forward merely meant the Council was willing to investigate Macquarie's proposal further. Mrs. Street asked the Council to vote to move forward.

Michael Page said the proposal to force those to pay for something they did not need was wrong. People needed food, clothes, and shelter to live, not internet. He said society went from buggies to rocket ships by allowing free market enterprise.

Victor Via, Utah Open Source, said he took to the prospect of growth for businesses and the local economy. He said technology was evolving, but technology within the walls was the same, for example Ethernet, which came out in 1984. Mr. Via said some parts of technology were resilient for long periods of time. People depended on technology as much as people depended on working sewer infrastructure. He asked the Council to resolve to Milestone Two.

An unnamed resident said he had wanted to be a UTOPIA customer since he moved to Orem. He said he believed Macquarie's plan was beneficial and acknowledged both sides in wanting to get more information and foster more competition. He said the City should encourage private ISPs on the network. There was fiber laid in the ground forty years ago which was still being used. He said the end-point technology and electronics were interchangeable, and Macquarie would take care of that. He believed increased competition would save money for all residents.

Kristy Costy said she had had access to UTOPIA for nine years, and access to fiber optic internet was a factor in her choice to buy a home in Orem. Ms. Costy said fiber was an incentive for businesses to come to Orem. She believed with the current proposal, a vast majority of Orem would save money. The City Council would need to do what was in the long-term best interest for the citizens. She understood that voting yes would not commit to the proposal—it just meant looking at it more in-depth.

An unnamed resident thanked the City Council for its efforts in sorting through the issue. Much had been said about being compelled to pay a utility fee. The unnamed citizen compared the

network to four groups of people, and then said that virtually all users would receive substantial benefit. The unnamed citizen urged the City Council to move ahead with Milestone Two.

Leslie Nelson said she strongly favored moving forward to Milestone Two. In doing so, UTOPIA would provide the highway where many competitors could offer services to the citizens.

Larry McFarland said he found arguments in favor of the proposal very interesting. He voiced concern with the idea that the proposal could help appreciate home values and said arguments like that had led cities to go bankrupt. He said it was not good business at the family or city level to pay a fee for nothing, especially with no control of the fee going up over time.

Sharon Anderson said it was reported the economy was going down. She was told Macquarie wanted to tie the fee rates to the inflation rate, which seemed like a huge red flag. Many experts predicted hyperinflation. If Macquarie was such a good thing, Mrs. Anderson asked why was it necessary to force people to pay. Mrs. Anderson said she did not think Macquarie had respect for future rights.

Mayor Brunst closed the public comment section of the meeting and turned the discussion to the Council.

Mr. Spencer addressed Mr. McFarland's question about stats in responding to emails and said he had spent three and a half hours going through emails sent by citizens. Mr. Spencer said it was a boring and tedious process. He reported that 80 percent of his emails were against the proposal, and 20 percent were in favor. Mr. Spencer read a quote by Ronald Reagan which illustrated the idea that one "cannot build prosperity by going into debt." Mr. Spencer then told a story about flight 402 flying into Miami airport. The pilots of the flight had put landing gear out but the landing gear light did not come on. The three pilots were so concerned about the light that they failed to realize the plane was gradually descending. Mr. Spencer said he believed Orem and its citizens wanted fiber. The Macquarie deal popped up and Orem wanted to jump at the first proposal, but it would be irresponsible not to check prices. Orem had a policy: if there were costs over \$10,000 involved then it goes out to bid. Mr. Spencer said he felt the matter of fiber infrastructure for the City was no different, and that it, too, should go out for bid. Mr. Spencer said his concerns were (1) over the mandatory utility fee for thirty years for all citizens and businesses of Orem; (2) the payment mechanism—the City may not see a dime from the transport fees; and (3) the potential step-in rights. Mr. Spencer wondered about the lawfulness of the utility fee. Mr. Spencer read an email he received from Steve Shallenberger. Mr. Spencer said he took the proposal very seriously. The question was how the Council felt about the utility fee. If the Council moved to milestone two, the utility fee would still be there. Mr. Spencer said he ran for office so he could listen to the citizens. He voiced his belief that with freedom should come the right to choose

Mr. Seastrand thanked the City staff, Macquarie, and the Orem residents for all the work that had gone into the proposal and learning about it. Mr. Seastrand said he approached the issue from a number of different standpoints. He explained that he liked the open-network, the private equity, and the possibility of paying down the debt. Mr. Seastrand said he had some problems with the proposal, including the proposed fee, the thirty-year commitment, and the potential for collection methods. Mr. Seastrand said another angle of the issue the City Council had to navigate was

sorting through the various citizen points of view. Many people argued for the proposal, and many argued against it. He thought that, as a community, the citizens should all listen to one another. Mr. Seastrand briefly reviewed the survey results and the messages associated with it. He said the Chamber of Commerce perspective was internet speed and how access was an important aspect of bringing businesses to Orem, and even to that end, Mr. Seastrand reported having observed vocal opposition and vocal in-favor. Mr. Seastrand said he did not believe UTOPIA could anticipate legislative action, the public's response, the legal constraints, or the competitive response from competing providers. There was a lot of room for discussion to find a common ground to chart a pathway to move forward. Mr. Seastrand asked the Council members if there was something about the deal that could be changed that would make it a better deal for everyone. Mr. Seastrand said he would like to see opportunity for choice, and a nonrequired utility fee. He restated his concern about the thirty-year commitment and wondered if there was any way to negotiate the relationship from thirty years down to a period of twenty and, if so, he wondered if those accommodations would address potential legal issues.

Mr. Spencer said he had received an email from Duncan Ramage, with Macquarie, that said "a vote to proceed to Milestone Two was a vote to proceed with the utility fee."

Mr. Seastrand said his suggestion was for something being tweaked by the City Council, not by Macquarie.

Mr. Andersen said he was under the impression that some citizens thought the proposal was not worth the City Council wasting time to consider. He reported that he began campaigning on the issue in 2011 and said he suspected he would not be the only Council member voting against the issue. Mr. Andersen said he looked at UTOPIA as a moral failure and business failure. He asked if UTOPIA had ever put itself up for sale, and said he wanted to see how the City could sell UTOPIA.

Mr. Sumner thanked those in attendance at the meeting for coming. Mr. Sumner reported having received comments and emails from residents regarding the Macquarie proposal. He said 70 percent of the emails he had received were against the proposal. He said he received an email that offended him, and stated that the Council members were not lining the pockets of UTOPIA. Mr. Sumner read two emails regarding the proposal which he had received from friends. One email was in favor of the proposal, the other was against. Mr. Sumner said he used that as an example to show how divisive the issue was for the citizens. He said the Council could not live in the past. Technology was advancing, and he acknowledged that mistakes had been made. He said the City needed to put the mistakes in the past and move forward. Mr. Sumner said fiber was the future. He signed up for UTOPIA two years ago, which move has saved him \$40 per month. He said he had never had any issues with his Internet Service Provider (ISP). Mr. Sumner acknowledged that \$3 million was coming out of general fund annually to pay for UTOPIA. That money came from taxes paid by the citizens. He said he had a problem with the 30-year agreement with Macquarie. He said he wanted to see some kind of opt-out opportunity, or some other kind of formula to consider the people who may not use the service. Mr. Sumner commented on Senator Valentine's remarks, saying he was concerned about the legality of going forward. He said he was nervous about government and private partnerships.

Mr. Macdonald said he had reservations due to the divisiveness of the issue. His hat was off to the citizens who showed a vested interest on the important issue. Mr. Macdonald said there was a

considerable amount of cost involved in success of the technology moving forward. Mr. Macdonald said a luxury once obtained was a necessity for life. He said he thought most citizens considered high speed internet a need today. The question was how and who would pay for service. His experience in the past was that he always felt he needed to be even more careful with other people's money than his own. Mr. Macdonald reviewed the options before the Council. He said many of the Council members would have liked the issue to go to a vote of the people. He acknowledged the statistically valid survey results provided by Y2 Analytics. Mr. Macdonald said he could not avoid the voice of people on the utility fee. Macquarie did tell the City Council that it should not vote to proceed to Milestone Two if the City had a problem with the proposed utility fee. Mr. Macdonald said the citizens wanted leadership from the Council. He knew he would not be able to please everyone, but hoped the citizens would be civil in their dealings with each other. He encouraged the citizens who stood on either side of the issue to find kinder ways to interact with one another.

Mrs. Black said she had done her best to read through the emails sent by citizens. She read Keri Shephard's written comments. Mrs. Black said she felt the citizens had done all they could, and the issue was now in the hands of the Council. The issue was now in the hands of the City Council. She felt the weight of that responsibility as she had studied, listened, and deliberated the facts surrounding the issue. Mrs. Black said she felt the wisest course of action was to proceed with Milestone Two, which would enable the Council to make a much more informed decision on how to proceed. Mrs. Black said, in the last few weeks, the Council had listened to other interested parties in making a proposal. She said Macquarie should continue to high consideration for the following reasons:

- Offer of ubiquitous build out within thirty months
- Open access
- Financially capable of providing capital funding
- Definitive plan

Mrs. Black gave the following reasons of why she wanted to keep Macquarie's proposal as an option for Orem:

- Fiber optic infrastructure was a huge asset for the City.
- Macquarie was responsible for funding of the build-out, periodic refreshing of the network, and day-to-day operations.
- Cities would contract to pay monthly fee for a period of thirty years, with the opportunity to pay down existing debt or lower the monthly fee with the City's portion of the revenue sharing from premium service.
- Macquarie proposed to provide a way to pay for the ubiquitous build out, which would give both business and homeowners access to the fiber infrastructure.
- Macquarie would provide open access which would promote competition.

Mrs. Black said she shared the same concerns as many of the residents with the utility fee. She said she had come to the conclusion that telecommunication access was essential to the way people operated in daily life, and because of that, she did belief fiber infrastructure was indeed a utility. Mrs. Black said the City needed to be forward thinking in approaching the issue. She said she agreed with other Council members in that there needed to be some kind of provision to address the indigent population where the utility fee was concerned.

Mayor Brunst said he appreciated the effectiveness of all the City Council members who had put the work to sort through the issue. He reported the emails he had received, which were approximately 70 percent against, and 30 percent in favor of the Macquarie proposal. He had

received approximately fifty to seventy-five emails per day. Mayor Brunst said he had encouraged a survey be conducted to get a feel for the citizens' standpoints. He explained the need for infrastructure repairs and replacements in order to maintain the infrastructure for their children and grandchildren, which would likely include a fee increase to help cover the cost of those basic needs. Mayor Brunst said technology was changing quickly. It was a discussion of what model was it that the City would use to help pay for the needs for fiber infrastructure. To charge every citizen a utility fee, whether they used it or not, was something Mayor Brunst disagreed with. He said the amount of the obligation the City would be taking on stretched over a considerable amount of time. He acknowledged that the fee would go up with inflation. Mayor Brunst said he thought more than one proposal should be considered to ensure the City makes the best choice. He wanted to see UTOPIA be successful but did not want to force the success. He believed the situation should have been put out to bid the previous year. He acknowledged that the marketplace had changed considerably which made sending out an RFP more difficult. Mayor Brunst said he believed there were other options available. He did not want to see the citizens under a forced obligation. He was against the idea of step-in rights, which were highlighted in the payment mechanism document regarding UTOPIA. Mayor Brunst said he hoped that each of the Council members had applied guiding principles as they considered what vote to cast. He said that his vote to move forward would be in direct violation of his own guiding principles. Mayor Brunst said he could not, in good conscience, force a product or utility upon his constituents without a majority vote of the electorate.

Mayor Brunst **moved** to not move forward with Milestone Two of the Macquarie predevelopment agreement, and to direct City representatives to take the necessary steps to not move forward to Milestone Two and to authorize payment of the City's pro-rata share of Milestone One costs. Mr. Spencer **seconded** the motion. Those voting aye: Hans Andersen, Richard F. Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. Those voting nay: Margaret Black.

Mr. Seastrand said the Council vote would send a message, and he wanted to ensure it sent the right message. He was committed to find a solution that could be supported conceptually. He thanked Macquarie for coming to the table and encouraged that they not go away angry. Mr. Seastrand said he wanted to see a way to reengage all cities with more a suitable solution. He had confidence in the product and the options that it would provide to businesses and residents. He believed that, through choice, Orem would work together to find a solution.

Mr. Sumner and Mr. Macdonald agreed with Mr. Seastrand's comments.

Adjournment

Mr. Andersen **moved** to adjourn the meeting. Mr. Macdonald **seconded** the motion. The vote to adjourn was unanimous.

The meeting adjourned at 9:13 p.m.

Donna R. Weaver, City Recorder

Approved: August 26, 2014